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AUG 22 1997

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Our File No.  
0080-108-63

August 22, 1997

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, DC 20554

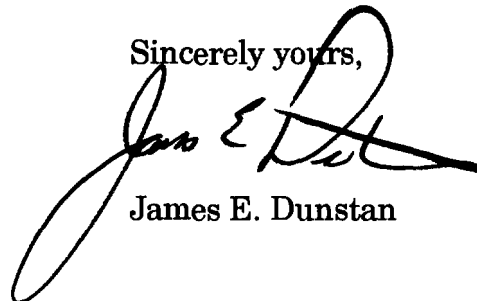
Re: Further Comments of Great Trails Broadcasting  
MM Docket No. 87-268

Dear Mr. Caton:

On behalf of Great Trails Broadcasting Corporation, I am transmitting an original and nine (9) copies of its Further Comments of Great Trails Broadcasting in the Matter of Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, MM Docket No. 87-268.

Please contact this office directly if there are any questions concerning this matter.

Sincerely yours,



James E. Dunstan

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Enclosures

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AUG 22 1997

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Before The  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of )  
 )  
Advanced Television Systems )  
and Their Impact Upon the ) MM Docket No. 87-268  
Existing Television Broadcast )  
Service )

To: The Commission

**FURTHER COMMENTS OF GREAT TRAILS BROADCASTING**

Great Trails Broadcasting, Inc. ("Great Trails"), by its attorneys, hereby files these Further Comments in support of its Petition For Partial Reconsideration of the Commission's *Fifth Report and Order* ("*Fifth R&O*") and *Sixth Report and Order* ("*Sixth R&O*") (adopted April 3, released April 21, 1997), in the above-referenced proceeding. In support of these Further Comments, Great Trails submits:

**I. INTRODUCTION**

In its Petition for Reconsideration, Great Trails pointed out to the Commission the grave harm which had befallen WHAG-TV, Hagerstown, Maryland. Operating on Channel 25 since 1970 as the NBC affiliate serving the mountainous and largely rural areas of Western Maryland, southern Pennsylvania, and parts of West Virginia and Virginia, WHAG-TV now finds that while all of the Washington, D.C. television stations have been granted DTV channels in the "core spectrum," WHAG-TV has been allocated Channel

55, requiring it to move twice. Moreover, the other Hagerstown stations received much lower channels which will allow them to significantly increase the area and population they serve, while WHAG-TV has determined that its actual DTV service area will be reduced because of interference. In short, WHAG-TV will go from having the largest service area in the market to having the smallest, resulting in a significant loss of service to the public from a station that historically has brought significant local news and weather information to viewers which is available from no other source.

By *Order*, DA 97-1377 (released July 2, 1997), the Commission extended the period for filing reply comments in the above-referenced proceeding until August 22, 1997, in order to allow all parties an opportunity to thoroughly review OET Bulletin No. 69, used to determine the propagation of DTV facilities, as well as calculating both DTV-to-DTV interference, and DTV-to-NTSC interference. WHAG-TV's consulting engineer has examined the Table of Allotments using OET Bulletin No. 69 to determine if another DTV channel was available for WHAG-TV's use which would provide better interference protection, better coverage, as well as not require "repacking" at the end of the transition period.

**II. WHAG-TV REQUESTS THAT ITS DTV CHANNEL 55  
BE EXCHANGED FOR CHANNEL 44, ALLOCATED TO  
WWPB, HAGERSTOWN**

At the urging of WHAG-TV, the engineering firm of Cohen, Dippell, and Everist, P.C. conducted a thorough study, and concluded that the only

available alternative channel for WHAG-TV is Channel 44. *See Engineering Statement on Behalf of WHAG-TV*, attached hereto. The Table below indicates the proposed change.

Call Letters	Current NTSC Channel	FCC-Proposed DTV Allotment	WHAG Proposed DTV Allotment
WHAG-TV	25	55	44
WWPB	31	44	55

In his Engineering Statement, Mr. Everist notes that one of the problems with the current Table of Allotment allocation of DTV Channel 55 to WHAG-TV, is the fact that it will be short-spaced to NTSC Channel 62, WFPT, Frederick, Maryland. This short-spacing may result in interference between the two signals.

WFPT is owned by Maryland Public Broadcasting Commission ("MPT"), and is part of the MPT television system. WWFP, NTSC Channel 31, Hagerstown, Maryland, is also owned by Maryland Public Broadcasting, and is part of the MPT television system. The Table of Allotments contained in the *Sixth R&O* proposes to allocate DTV Channel 44 to WWFP.

In the *Sixth R&O*, the Commission noted that some short-spaced situations had appeared in the proposed Table of Allotments, but that the Commission attempted to minimize them because of the potential interference which would result. *Sixth R&O*, ¶ 217. The Commission went on to state that "extensive engineering analysis" might be necessary to allow two short-space stations to operate in harmony. *Id.* at ¶ 221.

Great Trails submits that the engineering solutions which may be necessary to allow DTV Channel 55 and NTSC Channel 62 to coexist would be eased were both stations owned and operated by the same entity. A swap of Channel 55 for Channel 44 will place both DTV Channel 55 and NTSC Channel 62 in the same hands. As the attached Engineering Statement comments, MPT will be in the best position to build and operate Channel 55 in Hagerstown to minimize interference to Channel 62 in Frederick. Indeed, it would be most cost effective to have both of these stations in the same hands.

Moreover, in the event that the "real world" operation of these stations results in interference that cannot be solved, there will be little if any net loss of service to the public if DTV-55 and NTSC-62 are jointly owned. Since virtually all of the programming of the MPT Hagerstown and Frederick stations are the same, then chances are very high that viewers in any interference area between the two cities will be able to receive at least one of the *four* signals with the same programming (DTV-55, Hagerstown; NTSC-31, Hagerstown; DTV-28, Frederick; or NTSC-62, Frederick). If Channel 55 is assigned to WHAG-TV, however, there is a much higher likelihood that viewers in the interference area will lose one, if not both, programming services.

Finally, the Commission should take into account the nature of the MPT network in reaching this decision. Anchored by WMPT, Annapolis, MPT

operates six television stations in Maryland,<sup>1</sup> with significantly overlapping signals. During the transition period, there will be twelve MPT signals reaching Maryland and beyond. Swapping Channel 44 for 55 in Hagerstown should not significantly impact the ability of MPT to deliver its programming in the area.

### III. THE TABLE OF ALLOTMENT PLACES WHAG-TV AT AN UNFAIR COMPETITIVE DISADVANTAGE

Frankly, WHAG-TV feels singled out for adverse treatment under the *Sixth R&O*, and the approach taken by the Commission appears arbitrary and capricious. Of the eight (8) Washington, D.C., area stations, none has been assigned a “non-core” channel which will force them to move twice. All will be able to make a graceful transition to digital operations. Moreover, they will have the revenues which come from serving approximately six (6) million viewers to support their transition.

Moreover, the other Hagerstown commercial television station, WJAL, Channel 68, is assigned Channel 16, and sees its service area and population coverage increase fifty (50) percent under the *Sixth R&O*. If the Commission does not adopt the channel swap proposed herein, WWPB, Channel 31, will

<sup>1</sup> The stations in the MPT network are:

Call Sign	Location	NTSC Channel	Proposed DTV Channel
WMPT	Annapolis	22	42
WMPB	Baltimore	67	29
WFPT	Frederick	62	28
WWPB	Hagerstown	31	44
WGPT	Oakland	36	54
WCPB	Salisbury	28	56

enjoy an increase in service area and population of approximately twenty (20) percent. Neither will have to move, and both will end up better off in the digital environment.

WHAG-TV, in stark contrast, will be forced to move from Channel 25 all the way up to Channel 55, outside the "core" spectrum. It will not see any real increase in either area or population coverage, and indeed, most likely will be unable to serve all of its existing viewers if, as MSTV has submitted, the FCC has significantly overstated the actual interference-free areas which can be served, especially during the transition period. Under the FCC's own calculations, it will go from providing the best signal of any station in the area, to having the weakest signal in the market on Channel 55 – *and then it will be "repacked" to yet another channel.* In short, WHAG-TV, the first station to bring local news and weather information to northern and western Maryland, may in one swift moment have gone from a strong local voice in the market to a has-been.<sup>2</sup> All of the work which has gone into developing this station for nearly thirty years as *the* source in the area for critical news and weather information may have been ruined because of a single computer run which generated the Table of Allotments proposed in the *Sixth R&O*, and which now is being treated as the new gospel.

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<sup>2</sup> The FCC has admitted the value of WHAG-TV's programming when it modified WHAG-TV's must-carry zone to include cable systems in 11 additional counties beyond its one county ADI. *Great Trails Broadcasting Corp. (WHAG-TV)*, 10 FCC Rcd. 8629 (CSB 1995).

Great Trails submits that the fundamental unfairness which has resulted from the *Sixth R&O* cannot go unchallenged. How can the Commission allow a randomized computer program to choose winners and losers in the new digital world? How can stations licensed to a major television market, with the concomitant advertising resources, *all* get core channels, and WHAG-TV, bringing local news and weather information to rural areas of four states, be saddled with a non-core channel that no one can promise will allow it to deliver this vital programming throughout its existing service area? When the results of the computer run which generated the Table of Allotments are analyzed by human beings, the results can only be concluded to be arbitrary and capricious.

The FCC should take immediate steps to interject some rationality into a process that heretofore has been totally mechanistic in its approach to the future of television. Section 307(b) of the Communications Act requires the Commission to make "fair, efficient, and equitable distribution of radio service." 47 U.S.C. § 307(b). While the *Sixth R&O's* Table of Allotments may represent an efficient use of the Commission's computers, it falls far short of being either fair or equitable. Great Trails therefore urges the Commission to modify the Table of Allotments to eliminate situations where large market stations which are in the best financial position to implement DTV are given core spectrum channels, while smaller market stations, such as WHAG-TV, are granted non-core channels which will require the construction of two facilities.



## V. CONCLUSION

In its head-long rush to reclaim spectrum to auction off, the FCC has failed to apply common sense in allocating digital television channels. A methodology which will cost stations which can afford the transition to digital least, the most money, and costs stations which can most afford it most the least, is neither "fair," "efficient," or "equitable." Similarly, a methodology must be considered suspect when it increases the coverage area of several competitors in a market, while effectively decreasing the coverage area of another such that the "new winners" are leapfrogged ahead of a station which has provided valuable service for nearly thirty years.

**WHEREFORE**, the above-premises considered, Great Trails hereby requests that the Commission reconsider its Table of Allotments contained in the *Sixth R&O* and allocate DTV Channel 44 to WHAG-TV, and Channel 55 to WFPT, both licensed to Hagerstown, Maryland, or in the alternative, alter its methodology such as to grant WHAG-TV a "core" channel which will allow it to deliver its DTV signal to its current audience.

Respectfully Submitted,  
Great Trails Broadcasting Corp.



James E. Dunstan  
Its Attorney

Haley Bader & Potts P.L.C.  
4350 N. Fairfax Dr., Suite 900  
Arlington, VA 22203  
(703) 841-2345  
August 22, 1997

## **CERTIFICATE OF SERVICE**

This is to certify that a true copy of the foregoing "Further Comments of Great Trails Broadcasting" has been delivered by first class mail to the following on this 22<sup>nd</sup> day of August, 1997, except as otherwise indicated.

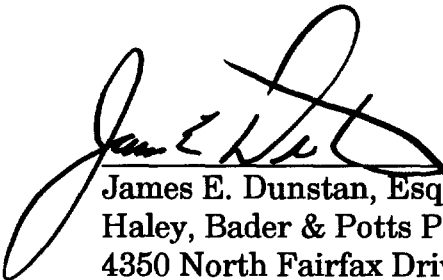
- \* Honorable Reed E. Hundt  
Chairman  
Federal Communications Commission  
Room 814  
1919 M Street, N.W.  
Washington, DC 20554
- \* Honorable James H. Quello  
Commissioner  
Federal Communications Commission  
Room 802  
1919 M Street, N.W.  
Washington, DC 20554
- \* Honorable Rachelle B. Chong  
Commissioner  
Federal Communications Commission  
Room 844  
1919 M Street, N.W.  
Washington, DC 20554
- \* Honorable Susan Ness  
Commissioner  
Federal Communications Commission  
Room 832  
1919 M Street, N.W.  
Washington, DC 20554

Maryland Public Broadcasting Commission  
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**ENGINEERING STATEMENT  
ON BEHALF OF  
WHAG-TV, HAGERSTOWN, MARYLAND  
CONCERNING SUPPLEMENT  
TO PETITION FOR RECONSIDERATION  
MM DOCKET NO. 87-268**

**AUGUST 1997**

**COHEN, DIPPELL AND EVERIST, P.C.  
CONSULTING ENGINEERS  
RADIO AND TELEVISION  
WASHINGTON, D.C.**

COHEN, DIPPELL AND EVERIST, P. C.

City of Washington            )  
  ) ss  
District of Columbia         )

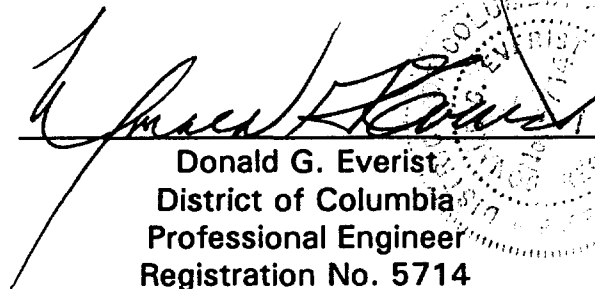
Donald G. Everist, being duly sworn upon his oath, deposes and states that:

He is a graduate electrical engineer, a Registered Professional Engineer in the District of Columbia, and is President of Cohen, Dippell and Everist, P.C., Consulting Engineers, Radio - Television, with offices at 1300 L Street, N.W., Suite 1100, Washington, D.C. 20005;

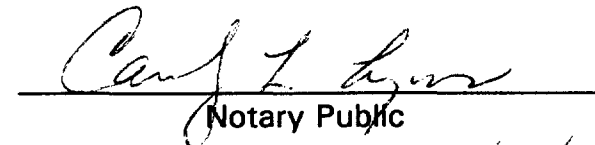
That his qualifications are a matter of record in the Federal Communications Commission;

That the attached engineering report was prepared by him or under his supervision and direction and

That the facts stated herein are true of his own knowledge, except such facts as are stated to be on information and belief, and as to such facts he believes them to be true.

  
Donald G. Everist  
District of Columbia  
Professional Engineer  
Registration No. 5714

Subscribed and sworn to before me this 15<sup>th</sup> day of August, 1997.

  
Notary Public

My Commission Expires: 2/28/98

This engineering statement has been prepared on behalf of Great Trails Broadcasting Corp., licensee of WHAG-TV, Hagerstown, Maryland. This further assessment is based upon examination of OET Bulletin No. 69 released July 2, 1997.

Television station WHAG-TV has been assigned a DTV Channel 55.

An examination of the VHF and UHF spectrum for alternate DTV channel has been performed. From these studies, a better allocation of the DTV channels has been determined. Television station WWPB(TV) licensed to Hagerstown, Maryland, is located on the same mountaintop. WWPB(TV) is an educational station which is licensed to the Maryland Public Broadcasting Commission and has been assigned DTV Channel 44. Specifically, WHAG-TV requests that it be assigned DTV Channel 44 and WWPB(TV) be assigned DTV Channel 55.

Allocation situation for the requested DTV channel swap is attached hereto.

As demonstrated, DTV Channel 55 has a spacing notation which is to a sister MPT station, WFPT(TV), licensed to Frederick, Maryland. Therefore, if any interference does occur to WFPT(TV), the Maryland Public Television Commission will have control of DTV station WWPB(TV) on Channel 55 and will have the ability to effect timely corrective action.

COHEN, DIPPELL AND EVERIST, P. C.

TABLE I-A  
PROPOSED CHANNEL 44 DTV TO NTSC  
ALLOCATION STUDY  
AUGUST 1997

<u>Channel</u>	<u>Call</u>	<u>City/State</u>	<u>Distance</u>	
			<u>Actual</u> km	<u>Required</u> km
N	44	WHAG-DTV Hagerstown, MD	--	--
N-15	29	None within 130 km	--	80.5
N-14	28	None within 130 km	--	80.5
N-8	36	WGPT Oakland,MD	117.6	80.5
N-7	37	None within 130 km	--	80.5
N-4	40	None within 130 km	--	80.5
N-3	41	None within 130 km	--	80.5
N-2	42	WVPY Front Royal, VA	83.8	80.5
N-1	43	WPMT York, PA	123.8	88.5
N	44	WVIA-TV Scranton, PA	245.3	217.3
N+1	45	WBFF Baltimore, MD	118.8	88.5
N+2	46	None within 130 km	--	80.5
N+3	47	WKBS-TV Altoona, PA	108.9	80.5
N+4	48	None within 130 km	--	80.5
N+7	51	None within 130 km	--	80.5
N+8	52	None within 130 km	--	80.5

COHEN, DIPPELL AND EVERIST, P. C.

**TABLE I-B**  
**PROPOSED CHANNEL 55 DTV TO NTSC**  
**ALLOCATION STUDY**  
**AUGUST 1997**

<u>Channel</u>	<u>Call</u>	<u>City/State</u>	<u>Distance</u>	
			<u>Actual</u> km	<u>Required</u> km
N	55	WWPB-DTV Hagerstown, MD	--	--
N-15	40	None within 130 km	--	80.5
N-14	41	None within 130 km	--	80.5
N-8	47	WKBS-TV Altoona, PA	109.6	80.5
N-7	46	None within 130 km	--	80.5
N-4	51	None within 130 km	--	80.5
N-3	52	None within 130 km	--	80.5
N-2	53	WNVT Goldvein, VA	122.5	80.5
N-1	54	WNUV-TV Baltimore, MD	111.7	88.5
N	55	New * Lebanon, PA	149.7 +	217.3
N + 1	56	WNVC Fairfax, VA	107.7	88.5
N + 2	57	None within 130 km	--	80.5
N + 3	58	None within 130 km	--	80.5
N + 4	59	None within 130 km	--	80.5
N + 7	62	WFPT Frederick, MD	66.7 *	80.5
N + 8	63	None within 130 km	--	80.5

+ Assumed not operational.

\* Short-spaced station.



COHEN, DIPPELL AND EVERIST, P. C.

TABLE II-A  
DTV TO NTSC  
FCC CHANNEL 55 ALLOCATION STUDY  
AUGUST 1997

				<u>Distance</u>	
<u>Channel</u>	<u>Call</u>	<u>City/State</u>	<u>Actual</u> km	<u>Required</u> km	
N	55	WHAG Hagerstown, MD	--	--	
N-15	40	None within 130 km	--	80.5	
N-14	41	None within 130 km	--	80.5	
N-8	47	WKBS-TV Altoona, PA	108.9	80.5	
N-7	46	None within 130 km	--	80.5	
N-4	51	None within 130 km	--	80.5	
N-3	52	None within 130 km	--	80.5	
N-2	53	WNVN Goldvein, VA	123.2	80.5	
N-1	54	WNUV-TV Baltimore, MD	111.6	88.5	
N	55	New Lebanon, PA	148.9 +	217.3	
N + 1	56	WNVC Fairfax, VA	108.2	88.5	
N + 2	57	None within 130 km	--	80.5	
N + 3	58	None within 130 km	--	80.5	
N + 4	59	None within 130 km	--	80.5	
N + 7	62	WFPT Frederick, MD	67.0 *	80.5	
N + 8	63	None within 130 km	--	80.5	

+ Assumed not operational.

\* Short-spaced station.

COHEN, DIPPELL AND EVERIST, P. C.

TABLE II-B  
DTV TO NTSC  
FCC CHANNEL 44 ALLOCATION STUDY  
AUGUST 1997

<u>Channel</u>	<u>Call</u>	<u>City/State</u>	<u>Distance</u>	
			<u>Actual</u> km	<u>Required</u> km
N 44	WWPB	Hagerstown, MD	--	--
N-15 29	None within 130 km		--	80.5
N-14 28	None within 130 km		--	80.5
N-8 36	WGPT	Oakland, MD	117.0	80.5
N-7 37	None within 130 km		--	80.5
N-4 40	None within 130 km		--	80.5
N-3 41	None within 130 km		--	80.5
N-2 42	WVPY	Front Royal, VA	82.8	80.5
N-1 43	WPMT	York, PA	124.5	88.5
N 44	WVIA-TV	Scranton, PA	246.3	217.3
N + 1 45	WBFF	Baltimore, MD	118.7	88.5
N + 2 46	None within 130 km		--	80.5
N + 3 47	WKBS-TV	Altoona, PA	109.6	80.5
N + 4 48	None within 130 km		--	80.5
N + 7 51	None within 130 km		--	80.5
N + 8 52	None within 130 km		--	80.5

+ Assumed not operational.

\*Short-spaced station.

COHEN, DIPPELL AND EVERIST, P. C.

TABLE III-A  
DTV TO DTV  
ALLOCATION STUDIES  
AUGUST 1997

PROPOSED

<u>Channel</u>	<u>Call</u>	<u>City/State</u>	<u>Distance</u>	
			<u>Actual</u> km	<u>Required</u> km
N	44	WHAG-DTV Hagerstown, MD	--	--
N-1	43	None within 130 km	--	88.5
N	44	WDPB Seaford, DE	232.1	196.3
N	44	WCVW Richmond, VA	240.4	196.3
N + 1	45	None within 130 km	--	88.5

FCC ASSUMED

<u>Channel</u>	<u>Call</u>	<u>City/State</u>	<u>Distance</u>	
			<u>Actual</u> km	<u>Required</u> km
N	55	WHAG-DTV Hagerstown, MD	--	--
N-1	54	WGPT Oakland, MD	117.6	88.5
N	55	WHYY-TV Wilmington, DE	237.1	196.3
N + 1	56	None within 130 km	--	88.5

COHEN, DIPPELL AND EVERIST, P. C.

TABLE III-B  
DTV TO DTV  
ALLOCATION STUDIES  
AUGUST 1997

PROPOSED

<u>Channel</u>		<u>Call</u>	<u>City/State</u>	<u>Distance</u>	
				<u>Actual</u> km	<u>Required</u> km
N	55	WWPB	Hagerstown, MD	--	--
N-1	54	WGPT	Oakland, MD	117.0	88.5
N	55	WHYY-TV	Wilmington, DE	237.7	196.3
N + 1	56	None within 130 km		--	88.5

ASSUMED

<u>Channel</u>		<u>Call</u>	<u>City/State</u>	<u>Distance</u>	
				<u>Actual</u> km	<u>Required</u> km
N	44	WWPB	Hagerstown, MD	--	--
N-1	43	None within 130 km		--	88.5
N	44	WCVW	Richmond, VA	239.5	196.3
N	44	WDPB	Seaford, DE	232.0	196.3
N + 1	45	None within 130 km		--	--